



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/79/Add.85
19 November 1997

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Sudan

1. The Committee considered the second periodic report of the Sudan (CCPR/C/75/Add.2) at its 1628th and 1629th meetings, on 28 October 1997, and subsequently adopted ^{1/} the following observations:

A. Introduction

2. The Committee welcomes the report submitted by the Government of the Sudan. It notes that the dialogue with the high-level delegation of the State party was frank, constructive and open, and it is also grateful for the further documents submitted by the Government on 3 November 1997. This permitted the Committee to have a clearer idea of the situation in the Sudan. While the second periodic report and its annexes contain substantially more information than the previous report, it is nonetheless regretted that the State party did not provide answers to all of the Committee's written list of questions, and that a number of questions asked orally also remained unanswered. The Committee acknowledges receipt of the reports by (i) the independent judicial commission which investigated events in Juba in 1992; and (ii) reports by the Advisory Council on Human Rights into allegations of slavery in southern Kordofan and of disappearances.

B. Factors and difficulties affecting the implementation of the Covenant

3. It is noted that the armed conflict originating in the southern part of the Sudan is an obstacle to the full implementation of the Covenant.

^{1/} At its 1642nd meeting, held on 5 November 1997.

4. The lack of reconciliation between different racial, religious, cultural and legal traditions in the north and the south of the Sudan appears to be a factor affecting the implementation of the Covenant.

C. Positive factors

5. In view of the fact that many violations of human rights have been caused in recent years in the context of the internal conflict in the Sudan, the Committee welcomes all initiatives directed towards a peaceful resolution of the conflict, including the Fourteenth Constitutional Decree which provides for measures to implement the Peace Agreement of April 1997; steps taken to give effect to this Decree; and continuing negotiations in Nairobi to resolve the conflict.

6. The Committee welcomes the progressive steps which have been taken to reduce the impact of the declared state of emergency; the existence of committees which are formulating a new Constitution; and steps which are being taken to establish a formal system of pluralistic democracy.

7. In the light of the significant displacement of persons as a result of the internal conflict, the Committee notes the efforts made to resettle such persons and to assist them to return to their places of origin.

D. Subjects of concern and the Committee's recommendations

8. The imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including apostasy, committing a third homosexual act, illicit sex, embezzlement by officials, and theft by force, is incompatible with article 6 of the Covenant. Moreover, some forms of execution fail to comply with the prohibition against cruel, inhuman or degrading treatment or punishment, especially for women, contained in article 7 of the Covenant. Therefore:

The death penalty, if used at all, should be applicable only to the most serious crimes, in accordance with article 6, and should be repealed for all other crimes. Any imposition of the death penalty should comply with the requirements of article 7. In its next report, the State party is asked to furnish information on the number of executions which have taken place, the type of offence for which the death penalty has been imposed, and the manner in which the execution has been carried out.

9. Flogging, amputation and stoning, which are recognized as penalties for criminal offences, are not compatible with the Covenant. In that regard, the Committee notes that:

By ratifying the Covenant, the State party has undertaken to comply with all its articles; penalties which are inconsistent with articles 7 and 10 must be abolished.

10. The Committee is concerned about the high maternal mortality rate in the Sudan, which may be the consequence of early marriage, clandestine abortions and female genital mutilation. The Committee is deeply concerned about the practice of female genital mutilation in the Sudan, particularly because it is

practised on female minors, who may suffer the consequences throughout their lives. This practice constitutes cruel, inhuman and degrading treatment and violates articles 7 and 24 of the Covenant. Therefore:

The State party should forbid, as a matter of law, the practice of female genital mutilation, making it a discrete criminal offence. Social and educational campaigns should be pursued to eliminate the practice.

11. The Committee notes that under customary arrangements a woman's consent to marriage is mediated by a guardian, and that recourse has to be made to the courts to override any prohibition within the family on a woman's choice of a husband. Such restrictions, whether by practice or legislation, are incompatible with articles 3, 16, 23 and 26 of the Covenant. Therefore:

The State party should repeal all legal provisions hindering women's free choice of spouse, as well as all other rules differentiating between men's and women's rights to marry and within marriage. The Committee is also concerned about the absence of a legal provision on a minimum age for marriage, and strongly recommends that such a provision be adopted forthwith.

12. The Committee is troubled by the number of reports of extrajudicial executions, torture, slavery, disappearances, abductions and other human rights violations from United Nations and NGO sources, and by the delegation's assertions that such human rights violations are relatively infrequent. In this connection, the Committee's concern extends to reports of abduction by security forces of children, particularly in the South. It welcomes the State party's declaration that it will investigate any reports of human rights abuses by police, security forces, the Popular Defence Forces or others under its responsibility. The Committee therefore recommends that:

(a) Permanent and independent mechanisms be set up to investigate alleged abuses of power by police, security forces and the Popular Defence Forces;

(b) The methodology of such investigations and their outcome should be made public;

(c) Such investigations should lead to the release of any person improperly detained, with proper compensation, and to disciplinary or criminal proceedings against those found responsible;

(d) The Government of the Sudan should continue to cooperate with United Nations bodies and non-governmental organizations on these matters;

(e) Complete information, including statistics, about such investigations and their outcome should be included in the State party's next periodic report.

13. With respect to liberty and security of the person, the Committee is particularly concerned that the vague and legally undefined concept of "national security", as applied in the Sudan, is inconsistent with the

provisions of article 9 of the Covenant and can be used as a basis for arrest and detention of persons without a more specific charge, creating an atmosphere of fear and oppression for anyone critical of the Government. Moreover, the Committee is of the view that the procedures for pre-trial detention described in paragraph 88 of the report allow the National Security Council, chaired by the President of the Republic, the power to detain persons for excessively long periods of time. Therefore:

The Committee recommends that the concept of "national security" be clearly defined by law and that police and security officers be required to state in writing why a person has been arrested. Such information should be available to the public and should be reviewable by the courts. The provisions of the National Security Act 1994, as amended, allowing detention by the National Security Council, should be repealed.

14. The Committee is concerned that visas for foreign travel may be arbitrarily refused, in contravention of article 12 of the Covenant, that immigration officers may arbitrarily require women to show that a male relative consent's to their leaving the Sudan, and that lists of names drawn up by various executive agencies without meeting any defined legal criteria are apparently used to restrict the freedom of movement of persons, including to leave the country. Therefore:

Any limitations on the freedom of movement must be established by law and be compatible with the provisions of the Covenant. The grounds for restricting a person's freedom of movement, including to leave the country, must comply with the Covenant and should be communicated to the individual promptly after such action is taken and should furthermore be open to prompt judicial review in all cases, including that of national security.

15. The Committee is concerned at reports of inadequate prison conditions and "ghost house" detention centres. It notes that the delegation of the State party admitted that prisons in the Sudan do not conform to international standards and that improvement is necessary. Therefore:

The Government of the Sudan should bring all places of detention under the control of the Prison Service, take the necessary measures to bring prison conditions into line with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners, and cooperate with the international community and NGOs in this regard as appropriate.

16. The Committee is of the view that a system of prompt trial for petty offences may be compatible with the provisions of the Covenant, but continues to be concerned at the system of trial in the Public Order Courts. Therefore:

Training should be given to judges on appropriate penalties and on procedural safeguards which must be observed. Lashes should be excluded as a punishment, and an appellate procedure should be introduced to review convictions and sentences.

17. The Committee notes the explanation that prosecution of security personnel under the National Security Act 1994, as amended, is restricted when such persons act in the course of their duties. It is also concerned that permission must be obtained for any such prosecution. Therefore:

Members of the police and security forces should be subject to prosecution and civil suits for abuse of power without any legal restriction; the provisions of the National Security Act 1994, as amended, are inconsistent with that concept and should be repealed. Moreover, statistics on complaints filed, prosecutions, convictions and sentences of members of the police and security forces for abuse of power should be included in the next report. Statistics on the number of requests for compensation and the amount of compensation actually awarded to victims of human rights violations should also be included.

18. The Committee is concerned at the system of licensing the press and other media, and the requirement to register the names and addresses of editors, journalists and printers. The Committee questions the independence of the National Press and Publication Council. Therefore:

Current laws and decrees should be revised so as to remove all disproportionate limitations on the media, which have the effect of jeopardizing freedom of expression itself.

19. The Committee considers that unnecessary restrictions should be removed from freedom of expression and association. The right of peaceful assembly should be respected by law enforcement officers.

20. The Committee is concerned that there is no recognition in law of the right to use local languages in official communications or administrative or court proceedings, and that religious minorities can be adversely affected by a range of discretionary administrative actions which can include the destruction of schools and educational facilities under town planning regulations. Therefore:

Emphasis should be given to the need of ethnic and religious minorities, wherever they reside in the Sudan, to pursue and develop their traditions, culture and language, as required by article 27 of the Covenant.

21. The Committee is concerned that in appearance as well as in fact the judiciary is not truly independent, that many judges have not been selected primarily on the basis of their legal qualifications, that judges can be subject to pressure through a supervisory authority dominated by the Government, and that very few non-Muslims or women occupy judicial positions at all levels. Therefore:

Measures should be taken to improve the independence and technical competence of the judiciary, including the appointment of qualified judges from among women and members of minorities. Training in human rights law should be given to all judges, law enforcement officers and members of the legal profession.

22. The Committee expresses concern at official enforcement of strict dress requirements for women in public places, under the guise of public order and morality, and at inhuman punishment imposed for breaches of such requirements. Restrictions on the liberty of women under the Personal Status of Muslims Act, 1992 are matters of concern under articles 3, 9 and 12 of the Covenant.

Therefore:

It is incumbent on the State party to ensure that all its laws, including those dealing with personal status, are compatible with the Covenant.

23. The Committee regrets the documented cases of official action which interferes with the rights of non-Muslim religious denominations and groups to practise their religion and to carry out peaceful educational activities.

Therefore:

A mechanism should be established to protect minority religious groups from discrimination and action seeking to impede their freedom to teach and practise their religious beliefs.

24. The Committee takes note that the Government of the Sudan appears to consider that participation by citizens in the conduct of public affairs is met by a system of direct democracy. In that regard:

The Committee emphasizes that the enjoyment of the rights protected by article 25 of the Covenant requires full recognition of freedom of expression and the right to impart and receive ideas of all kinds, including those in opposition to the Government.

25. The Committee draws the attention of the Government of the Sudan to the provisions of the guidelines regarding the form and contents of periodic reports from States parties and requests that its next periodic report, due on 7 November 2001, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of the Sudan.
